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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/835,300

04/13/2001

David Michael Kimble

50P3984.01

4749

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09/14/2006

ROGITZ & ASSOCIATES

750 B STREET

SUITE 3120

SAN DIEGO, CA 92101

EXAMINER

HUYNH, SON P

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/835,300

Applicant(s)

KIMBLE, DAVID MICHAEL

Examiner

Son P. Huynh

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 May 2006 and 27 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 114-117 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 114-117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 27, 2006 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 114-117 have been considered but are moot in view of the new ground(s) of rejection.

Claims 1-113 have been canceled.

### ***Claim Objections***

3. Claim 116 is objected to because of the following informalities:

Art Unit: 2623

Claim 116, line 1 recite the limitation "the set top box" should be replaced as – a set top box--. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 114-117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (US 6,317,885) in view of Schumacher et al. (US 6,757,907) and Zigmond et al. (US 7,076,792).

Regarding claim 114, Fries discloses a method for providing video program, comprising:

using a TV system to present to a user's web Browser a list of links, each link corresponding to a respectively piece of television program (using TV system, including a set top box (28) and television 30) to present to a user's web Browser 62 pages such as program guide page comprises a list of links, each link on the program guide page corresponding to a respectively piece of video program – see including, but are not limited to, figures 1, 3, 6, col. 6, lines 35-65; col. 18, lines 6-22);

receiving a selection of a link (e.g., receiving a selection of a link to a television program – see including, but is not limited to, col. 18, lines 6-22);

Fries further discloses the page images have meta-data and PSI data associated therewith in the Transport stream (col. 22, lines 61-67). The meta data comprises the source ID, size, shape and position, etc. of the images (col. 22, line 61-col. 30, line 65). In response to selection to link on the page (e.g. link to a video program), selection protocol file that contains meta-data and PSI data (size, source ID, channel, position, color, etc.) for displaying the video program corresponding to the selected link – see including, but are not limited to, col. 2, lines 30-38, 7, lines 7-52, col. 8, line 50-col. 11, line 37, col. 18, lines 6-23, col. 19, lines 30-63, col. 22, line 61-col. 23, line 15. Thus, protocol file (metadata and PSI data) is inherently sent to the TV system in response to the selection of a link on the page, the protocol file including a channel (ID source) and a size and location of the images corresponding to the video program associated with the selection so that the TV channel corresponding to video program associated to the link it tuned to and display a predetermined position on the screen (also see col. 7, lines 35-52);

Pries further discloses causing a channel tuner of the TV system to tune to the TV channel corresponding to the video program associated with the selection (causing channel tuner such as in band tuner 70 of the set top box to tune to the TV channel corresponding to the video program associated with the selected link – see including, but are not limited to, figure 3, col. 9, lines 40-50; col. 13, lines 57-64; col. 18, lines 7-22). Fries further discloses the Browser 62 displays program guide allows a user to link

Art Unit: 2623

to a currently available program, add the program to a timer for timed viewing thereof, and/or prompt the user to purchase a pay per view event (col. 13, lines 58-64; col. 18, lines 7-22). However, Fries does not specifically disclose providing video on demand wherein the list of links (in the program guide) is video on demand list, and the protocol file include a TV channel of the selected link and a size and location of a video layer within a markup language layer.

Schumacher, in an analogous art, discloses providing a list of video on demand programs using a web browser, and the video on demand system 100 provides the selected video on demand program to user in respond to user selection of a link on the video on demand list (see including, but are not limited to, figures 1-4, 6, col. 2, line 47-col. 4, line 5, col. 5, lines 35-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries to use the teaching as taught by Schumacher in order to allow user to navigate and select a video on demand program for immediately delivery by selection of a link on the screen thereby improve convenience for users. However, Fries in view of Schumacher does not specifically disclose the protocol file includes a TV channel of the link and a size and location of a video layer **within a markup language layer**.

Zigmond discloses the protocol file includes a TV channel of a link and a size and location of a video layer within a markup language layer (HTML tags includes channel number, TV image width, TV image height, input source, z position, color, position, etc.

Art Unit: 2623

of a television show layer within a HTML page content – see including, but is not limited to, col. 2, lines 4-22, col. 3, line 45-col. 4, line 37; col. 5, lines 43-57, col. 7, lines 45-62). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries in view of Schumacher to use the teaching as taught by Zigmond in order to transmit and display video image and HTML image to user as a single HTML page (col. 3, lines 3-67), thereby improve convenience to users.

Regarding claim 115, Fries in view of Schumacher and Zigmond teaches the TV system as discussed in claim 114. Fries further disclose the TV system includes a set top box (STB 28, figures 1,3), the STB presenting to the user's Web browser (62) the list of links (figures 3, 6-8, col. 6, lines 35-55, col. 13, lines 58-64).

Regarding claim 116, Fries in view of Schumacher and Zigmond teaches the TV system as discussed in claim 114. Zigmond further discloses the home entertainment system provides Internet layer (for display HTML image, web content 220) and a video layer (e.g., for displaying video image 220) to the user's web browser (web browser for displaying HTML documents), the browser being directed to render a portion of the Internet layer transparent to establish a transparent Internet portion, the transparent Internet portion having a size and screen location specified in the protocol file, the video layer being presented in the transparent Internet portion (see including, but is not limited to, figures 2, 6, col. 3, lines 1-11, line 42-col. 4, line 49, col. 5, lines 9-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was

Art Unit: 2623

made to modify Fries in view of Schumacher to use the teaching as further taught by Zigmond in order to allow user to simultaneously view the video content and Internet content on the same page.

Regarding claim 117, the limitations of the system as claimed that correspond to the limitations of the method as claimed in claim 114 are analyzed as discussed in the rejection of claim 114.

Fries further discloses set top box (28) and television 30 (figure 1, 3, are interpreted as “a set top box” and “a display”;

Browser (62) presenting pages including plurality of links – figures 3, 6, col. 13, lines 58-64) is interpreted as “a Web browser presenting images on the display;

cable head end 22 (figures 1, 2) is interpreted as “a television head end”.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Berger et al. (US 6,230,174) discloses method of generating a markup language document containing image slices.

Kikinis (US 6,205,485) discloses simulcast web page delivery using a 3D user interface system.



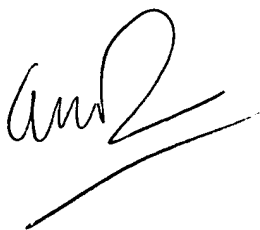
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Son P. Huynh

September 11, 2006

A handwritten signature in black ink, appearing to read 'SPH' followed by a stylized flourish.